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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 21, 1998

APPLICATION OF

ROBERT A. WINNEY d/b/a/ THE
WATERWORKS COMPANY OF FRANKLIN
COUNTY

CASE NO. PUE980057

For an increase in rates and charges

**ORDER ADOPTING RECOMMENDATIONS
AND DISMISSING PROCEEDING**

On July 31, 1998, the Hearing Examiner issued his Report concerning the application filed by Mr. Robert A. Winney d/b/a The Water Works Company of Franklin County (the “Company”). He recommended that the Commission enter an order granting Staff’s July 1, 1998 Motion to Dismiss in which it contended that the Commission should dismiss this matter because the Company had failed to comply with the public notice requirements.

More specifically, the Hearing Examiner explained that the Commission had directed the Company, in an order entered on April 17, 1998, to provide notice to all of its customers and local officials of the Company’s application and of the hearing. The Hearing Examiner stated that he had issued a Ruling on July 6, 1998, allowing the Company to file a response to Staff’s Motion to Dismiss. The Hearing Examiner further stated that the Company mailed a letter to Staff counsel on or about July 13, 1998, apparently in response to Staff’s Motion to Dismiss, but the Company did not explain why it had not complied with the public notice requirements of the April 17, 1998 Order; nor did it request an opportunity to cure the defective notice. The Hearing Examiner therefore recommended that the Commission grant Staff’s Motion to Dismiss this matter given that the records of the Clerk of the Commission showed that the Company failed to

comply with the public notice requirements or to file a certificate of mailing with the Clerk of the Commission. Therefore, the Hearing Examiner stated, the Commission should confirm that the rates and charges prescribed by the Commission in its Interim Order of February 27, 1998, in the Company's prior rate case,¹ are the rates and charges currently in effect for the Company. The Company did not file comments on the Hearing Examiner's Report.

NOW, UPON CONSIDERATION of the Hearing Examiner's July 31, 1998 Report and the applicable rules and statutes, the Commission finds that the Hearing Examiner's findings and recommendations are reasonable and should be adopted. The notice requirements of § 56-237 and § 56-237.1 of the Code of Virginia apply to this applicant as they do to any proponent of a rate case application and the Company has not met this basic requirement. Moreover, the Company has not made an effort to explain or rectify its failure to comply with the public notice requirements. In view of the Company's flagrant disregard of the Commission's orders and the requirements of the Virginia Code, we believe the only proper course of action is to dismiss this matter; therefore, the rates and charges prescribed in the February 27, 1998 Order in Case No. PUE970119 remain in effect. Accordingly,

IT IS ORDERED that:

(1) The application of Robert A. Winney d/b/a The Water Works Company of Franklin County in this proceeding is dismissed.

(2) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings and the papers placed in the Commission's files for ended causes.

¹ Application of Robert A. Winney d/b/a The Water Works Company of Franklin County, For a certificate of public convenience and necessity authorizing the furnishing of water, Case No. PUE970119, Document No. 980230110 (Feb. 27, 1998).